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**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION**

HERITAGE-NEVADA VIII, LLC,  
  
 Plaintiff,  
  
 v.

WORLD MARKET CENTER  
 VENTURE, LLC,  
  
 Defendant.

Case No. 3:08-mc-80245-VRW  
  
 (Case No. 2:08-cv-00130-PMP-RJJ  
 pending in the United States District Court  
 for the District of Nevada)

**FIFTH JOINT STIPULATION  
 REQUESTING A 60-DAY  
 CONTINUANCE OF WORLD  
 MARKET CENTER VENTURE  
 LLC'S MOTION TO QUASH  
 SUBPOENA AND PROPOSED  
 ORDER THEREON, IN LIGHT OF  
 RELATED MOTION TO COMPEL  
 PENDING IN DISTRICT OF NEVADA**

Plaintiff-opposer Heritage-Nevada VIII, LLC ("Heritage"), defendant-  
 movant World Market Center Venture, LLC ("WMC"), and joining party Cost Plus  
 Management Services, Inc. ("Cost Plus") hereby submit the following joint  
 stipulation and proposed order for a 60-day continuance of the August 6, 2009

1 hearing date and all related opposition and reply deadlines in connection with  
2 WMC's pending motion to quash a subpoena that Heritage previously served upon  
3 Cost Plus, in light of a related motion to compel currently pending in the District of  
4 Nevada (Heritage, WMC, and Cost Plus are collectively the "parties").

5 As referenced in the parties' prior stipulations, Heritage's motion to compel  
6 in the District of Nevada has been fully briefed and was argued on January 15,  
7 2009, and the parties await the court's decision on that motion to compel. After  
8 the parties filed their most-recent joint stipulation for a continuance in early May,  
9 Heritage and WMC had a May 13 status conference with the District of Nevada  
10 Magistrate who will decide Heritage's motion to compel, and the parties were told  
11 that a decision would be forthcoming shortly.

12 This Court previously continued the hearing date for WMC's pending quash  
13 motion, which was originally set for January 29, 2009, based upon the parties'  
14 filing of joint stipulations requesting such relief. The prior stipulations requested a  
15 continuance because the information and materials that are the subject of  
16 Heritage's subpoena and WMC's motion to quash overlap with documents that are  
17 the subject of Heritage's motion to compel currently pending in the United States  
18 District Court for the District of Nevada, the court responsible for and most  
19 familiar with the underlying litigation and its background facts. As discussed in  
20 the prior stipulations, WMC cited this overlap in its moving papers. *See, e.g.*,  
21 WMC supporting memorandum of law at 4, 7 (arguing that the documents that  
22 Heritage seeks in its subpoena "are presently the subject of [a] dispute that is being  
23 heard on an expedited basis by the Nevada District Court").

24 The parties remain in agreement that the resolution of Heritage's motion to  
25 compel could be helpful and potentially instructive to this Court, and that a 60-day  
26 continuance of the August 6, 2009 hearing date and all related filing deadlines  
27 remains desirable and warranted in the interests of judicial economy. Because the

1 Nevada motion remains pending, and also in the interests of judicial economy, the  
2 parties further agree that a 60-day continuance is now warranted.

3       The parties stipulate that the deadline for all opposition and reply filings will  
4 be based upon the newly-selected hearing date, in accordance with the Northern  
5 District of California local rules.

The parties reserve all rights, remedies, objections, and arguments in connection with this motion to quash, including (1) Heritage's argument that WMC's motion was procedurally defective and not filed in accordance with the Northern District of California local rules; (2) WMC's and Cost Plus' argument that Heritage's subpoena was procedurally defective and not served in accordance with these local rules; and (3) Cost Plus' request that if WMC's motion to quash is denied and Cost Plus is ordered to comply with Heritage's subpoena, Heritage should be ordered to pay for Cost Plus' costs and fees.

Dated: July 10, 2009

IT IS SO STIPULATED.

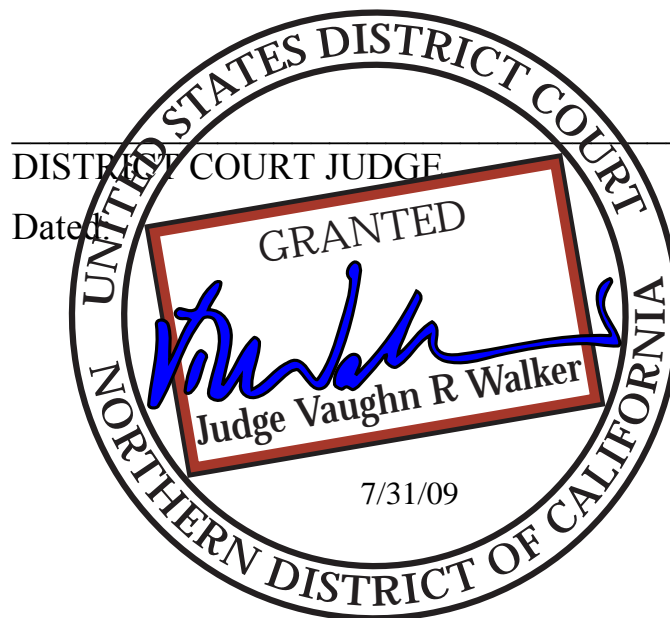
<u>/s/ Michael A. Firestein</u> Michael A. Firestein (SBN 110622) mfirestein@proskauer.com PROSKAUER ROSE LLP 2049 Century Park East 32nd Floor Los Angeles, CA 90067-3206 Tel: 310.557.2900 Fax: 310.557.2193  Brendan J. O'Rourke* Adam D. Siegartel* PROSKAUER ROSE LLP 1585 Broadway New York, NY 10036 Tel: 212.969.3000 Fax: 212.969.2900 *Admitted <i>pro hac vice</i> in District of Nevada  <i>Attorneys for plaintiff-opposer</i> <i>Heritage-Nevada VIII, LLC</i>	<u>/s/Rob L. Phillips</u> Rob L. Phillips (SBN 175354) phillipsr@gtlaw.com Mark G. Tratos** Ronald D. Green** F. Christopher Austin** GREENBERG TRAURIG LLP 3773 Howard Hughes Parkway Suite 500 North Las Vegas, NV 89101 Tel: 702.792.3773 Fax: 702.792.9002  **Admitted in District of Nevada  <i>Attorneys for defendant-movant</i> <i>World Market Center</i> <i>Venture, LLC</i>	<u>/s/Marcy J. Bergman</u> Marcy J. Bergman (SBN 75826) (marcy.bergman@bryancave.com) Bryan Cave LLP Two Embarcadero Center Suite 410 San Francisco, CA 94111 Tel: 415.675.3421 Fax: 415.675-3621  <i>Attorneys for joining party</i> <i>Cost Plus Management Services, Inc.</i>
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I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/S/) within this efiled document.

/s/ Joshua J. Pollack  
Joshua J. Pollack

~~PROPOSED ORDER~~

Having considered the foregoing joint stipulation requesting a 60-day continuance of World Market Center Venture LLC's motion to quash subpoena and the August 6, 2009 hearing date and all related opposition and reply deadlines, in light of related motion to compel pending in District of Nevada, it is HEREBY ORDERED that the hearing date for this motion is continued to October 22, 2009 at 10:00AM, 2009, and that all opposition and reply filings will be based upon this new hearing date in accordance with the Northern District of California local rules.



...

**CERTIFICATE OF SERVICE**

I declare that: I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within cause; my business address is Proskauer Rose LLP, 2049 Century Park East, Suite 3200, Los Angeles, California 90067-3206. I am admitted to practice in the United States District Court for the Northern District of California.

On July 10, 2009, I caused a true and correct copy of the Fifth Joint Stipulation Requesting A 60-Day Continuance Of World Market Center Venture LLC's Motion To Quash Subpoena And Proposed Order Thereon, In Light Of Related Motion To Compel Pending In District of Nevada, to be served by first class mail and electronic mail upon counsel for World Market Center Venture, LLC and Cost Plus Management Services, Inc. at the following addresses:

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*Attorneys for joining party*  
*Cost Plus Management Services, Inc.*

Executed on July 10, 2009 at Los Angeles, California.

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/s/ Joshua J. Pollack  
Joshua J. Pollack